

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

OCT 19 2017

Clerk, U.S. District Court
District Of Montana
Billings

KIMBERLY MARIE TUCKER,

Plaintiff,

vs.

NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration

Defendant.

CV 16-132-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations filed on September 21, 2017. (Doc. 16). Judge Cavan recommends that this Court grant Plaintiff Kimberly Tucker's motion for remand. (Doc. 13).

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendations for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by United States Magistrate Judge Cavan (Doc. 16) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Plaintiff Tucker's motion for remand (Doc. 13) is GRANTED.

IT IS FURTHER ORDERED that the Defendant Commissioner's decision is REVERSED and this matter is REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this opinion.

DATED this 19th day of October, 2017.


Susan P. Watters
SUSAN P. WATTERS
United States District Judge